

2000166308

Before the
Administrative Hearing Commission
State of Missouri



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MISSOURI
ATTORNEY GENERAL

STATE COMMITTEE OF PSYCHOLOGISTS,)

Petitioner,)

vs.)

No. 03-0170 PS

ERIC C. HUNSAKER,)

Respondent.)

CONSENT ORDER

The licensing authority filed a complaint. Section 621.045, RSMo 2000, gives us jurisdiction.

On October 3, 2003, the parties filed a "Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists, and Joint Disciplinary Order With Joint Stipulated Findings of Fact and Conclusions of Law." Our review of the document shows that the parties have stipulated to certain facts and waived their right to a hearing before us. Because the parties have agreed to these facts, we incorporate them into this order and adopt them as stipulated. *Buckner v. Buckner*, 912 S.W. 2d 65, 70 (Mo. App., W.D. 1995). We conclude that the licensee is subject to discipline under § 337.035.2(5), (13) and (15), RSMo 2000. We incorporate the parties' proposed findings of fact and conclusions of law into this Consent Order. We certify the record to the licensing agency under § 621.110, RSMo 2000.

The only issue before this Commission is whether the stipulated conduct constitutes cause to discipline the license. The appropriate disciplinary action is not within our power to decide; that is subject to the licensing authority's decision or the parties' agreement. Section 621.110, RSMo 2000.

No statute authorizes us to determine whether the agency has complied with the provisions of section 621.045.3, RSMo 2000. We have no power to superintend agency compliance with statutory procedures. *Missouri Health Facilities Review Comm. v. Administrative Hearing Comm'n*, 700 S.W. 2d 445, 450 (Mo. banc 1985). Therefore, we do not determine whether the agency complied with such procedures.

SO ORDERED on October 7, 2003.

KAREN A. WINN
Commissioner

BEFORE THE
ADMINISTRATIVE HEARING COMMISSION
STATE OF MISSOURI

FILED
OCT 03 2003
ADMINISTRATIVE HEARING
COMMISSION

STATE COMMITTEE OF PSYCHOLOGISTS,)

Petitioner,)

v.)

ERIC C. HUNSAKER,)

Respondent.)

No. 03-0170 PS

JOINT MOTION FOR CONSENT ORDER, JOINT STIPULATION OF FACTS,
WAIVER OF HEARINGS BEFORE THE ADMINISTRATIVE HEARING
COMMISSION AND STATE COMMITTEE OF PSYCHOLOGISTS,
AND JOINT DISCIPLINARY ORDER WITH JOINT STIPULATED
FINDINGS OF FACT AND CONCLUSIONS OF LAW

Pursuant to the rules governing practice and procedure before the Administrative Hearing Commission ("AHC"), 1 CSR 15-3.440(3)(C), and pursuant to the terms of § 536.060, RSMo, as it is made applicable to the AHC by § 621.135, RSMo, the parties waive the right to a hearing and decision in the above-captioned case by the AHC. In addition, the parties waive the right to a disciplinary hearing before the State Committee of Psychologists ("Committee") pursuant to § 621.110, RSMo. The parties jointly stipulate and agree that a final disposition of this matter may be effectuated as described below.

Respondent acknowledges that he is aware of and understands the various rights and privileges afforded to him by law, including the right to a hearing of the charges against him; the right to appear and be represented by legal counsel; the right to have all charges against him proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses

appearing at the hearing against him; the right to present evidence on his behalf at the hearing; the right to a decision upon the record of the hearing by a fair and impartial administrative hearing commissioner concerning the complaint pending against him; the right to a ruling on questions of law by the AHC; the right to a disciplinary hearing before the Committee at which time he may present evidence in mitigation of discipline; the right to a claim for attorney's fees and expenses; and the right to obtain judicial review of the decisions of the AHC and the Committee. Being aware of these rights provided him by operation of law, Respondent knowingly and voluntarily waives each and every one of these rights as they apply to him, freely enters into this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and the State Committee of Psychologists, and Joint Disciplinary Order with Joint Stipulated Findings of Fact and Conclusions of Law ("Joint Stipulation") and agrees to abide by the terms of this document as they pertain to him.

Respondent acknowledges that he has received a copy of the Complaint in this cause which was filed with the AHC on February 3, 2003. Respondent stipulates that the factual allegations contained in this Joint Stipulation are true and stipulates with the Committee that his license, No. PY200166308, is subject to disciplinary action by the Committee in accordance with the provisions of Chapter 621, RSMo, and § 337.035, RSMo.

Based upon the foregoing, the Committee and Respondent jointly stipulate to the following findings of fact and conclusions of law in lieu of the facts as alleged in the Complaint and request that the AHC adopt as its own the Joint Stipulated Findings of Fact and the Joint Stipulated Conclusions of Law set forth below.

JOINT PROPOSED FINDINGS OF FACT

1. Petitioner, the State Committee of Psychologists ("Committee"), is an agency of the state of Missouri created and established by § 337.050, RSMo 2000, for the purpose of administering and enforcing the provisions of Chapter 337, RSMo, relating to psychologists.
2. Respondent, Eric C. Hunsaker ("Hunsaker"), is licensed by the Committee as a psychologist, license No. PY~~2000166308~~. *2000166308*.
3. Hunsaker's initial license to practice as a psychologist in Missouri was issued by the Committee on August 26, 2000.
4. Hunsaker's license as a psychologist has remained current and active since its original issue.
5. During the period between approximately September 2000 and April 2001, Hunsaker was in his second year of employment at St. Louis Behavioral Medicine Institute ("BMI") as a post-doctoral intern.
6. During the period between September 2000 and April 2001, Hunsaker's duties at BMI included the clinical supervision of L.G., a female practicum student.
7. During the period between January 2001 and April 2001, Hunsaker made deliberate and repeated, unwanted and inappropriate comments of a sexual nature to L.G.
8. Hunsaker told L.G. he was attracted to her.
9. Hunsaker complimented L.G. on her appearance.
10. Hunsaker told L.G. he had sexual fantasies about her and masturbated during these periods of fantasizing.

11. Hunsaker made inappropriate comments to L.G. about a patient's response that a Rorschach inkblot looked like a penis.

12. Hunsaker's inappropriate sexual comments caused L.G. to terminate her practicum at BMI before completion of the semester.

13. Hunsaker's comments exploited his professional relationship with L.G.

14. Hunsaker had a relationship of professional trust and confidence with L.G. in that L.G. relied on Hunsaker to comply with the laws and standards of practice pertaining to the practice of psychology in performing his duties as a psychologist, including supervision.

JOINT PROPOSED CONCLUSIONS OF LAW

15. Hunsaker's conduct violates L.G.'s professional trust and confidence.

16. Hunsaker's conduct violates the ethical rules of conduct adopted by the Committee.

17. 4 CSR 235-5.030(4)(D) states in relevant part: "Prohibited Exploitation in Professional Relationships. The psychologist shall not exploit, sexually or otherwise, his/her professional relationship with clients, supervisees, students, employees, research participants or others."

18. Hunsaker's conduct violates 4 CSR 235-5.030(4)(D).

19. Cause exists for the Committee to take disciplinary action against Hunsaker's license pursuant to § 337.035, RSMo, 2000, which states in relevant parts:

2. The committee may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

....
(5) [M]isconduct . . . in the performance of the functions
or duties of any profession licensed or regulated by this chapter;

....
(13) Violation of any professional trust or confidence;

....
(15) Being guilty of unethical conduct as defined in
“Ethical Rules of Conduct” as adopted by the committee and filed
with the secretary of state.

JOINT DISCIPLINARY ORDER

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the Committee in this matter under the authority of § 621.110, RSMo 2000. This disciplinary order will be effective immediately upon the issuance of the Consent Order of the Administrative Hearing Commission without further action by either party:

1. Respondent’s psychologist license, No. PY200166308, is hereby placed on PROBATION for a period of four years (the disciplinary period). During the disciplinary period, Respondent must adhere to the following terms and conditions:

I. REQUIREMENTS REGARDING PSYCHOLOGICAL TREATMENT

A. Respondent must receive, at Respondent’s own expense, ongoing treatment from a psychologist or clinician approved by the Committee. Within 20 business days of the effective date of this order, Respondent shall submit a list of no less than five proposed psychologists or clinicians to provide treatment to Respondent. The Committee may approve a psychologist or clinician from this list or may require a second list of five psychologists or

clinicians, which Respondent shall submit within 20 business days of the Committee's request. Respondent must begin treatment within 30 days of the Committee's approval. If Respondent is currently undergoing treatment, Respondent may submit the name of Respondent's current treating psychologist or clinician to the Committee for approval. In any event, Respondent must immediately notify the Committee, in writing, of the start date of treatment.

B. Respondent must give the Committee or its representatives permission to review Respondent's personal treatment or medical records.

C. Respondent's treating psychologist or clinician must report at least once every six months to the Committee on Respondent's progress. Reports must be received before March 1 and September 1 of each year. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

II. REQUIREMENTS REGARDING SUPERVISION OF RESPONDENT'S PRACTICE

A. Respondent's practice as a professional psychologist shall be supervised on a weekly basis by a psychologist approved by the Committee. Within 20 business days of the effective date of this order, Respondent shall submit no less than two names of proposed psychologists who will agree to provide supervision to Respondent. The Committee may approve one of the psychologists or may require additional names to be submitted, which Respondent shall submit within 20 business days of the Committee's request. Respondent must begin supervision within one week of the Committee's approval. Respondent must immediately notify the Committee, in writing, of the start date of supervision. If Respondent has failed to secure a supervisor within 20 business days from the start of probation, the

Respondent shall cease practicing psychology until a supervisor is secured. Respondent shall be responsible for any payment associated with the supervision. Supervision includes, but is not limited to, weekly on-site face-to-face review of cases and review (approval and co-signing) of written reports such as case notes, intake assessments, test reports, treatment plans, and progress reports.

B. In the event the supervising psychologist becomes unable or decides not to continue serving in his/her capacity as a supervising psychologist or otherwise ceases to serve as a supervising psychologist during the period of probation, then the Respondent shall:

1. within three business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, advise the Committee in writing that he is needing to secure a supervising psychologist and the reasons for such change; and
2. within 20 business days of being notified of the supervising psychologist's inability or decision not to continue serving as the supervising psychologist, or otherwise learning of the need to secure a supervising psychologist, secure a supervising psychologist pursuant to and in accordance with the terms and conditions set forth in this Joint Stipulation. After 20 business days, the Respondent shall not practice if he has not secured a supervisor.

C. The supervising psychologist shall be vested with administrative authority over all matters affecting the provision of psychological health services provided by

Respondent so that the ultimate responsibility for the welfare of every client is maintained by the supervising psychologist.

D. Respondent shall not provide psychological services to female clients until Respondent's supervisor determines Respondent is competent to do so.

E. After Respondent's supervisor determines Respondent is competent to provide psychological services to female clients, all psychological services provided to female clients by Respondent during the disciplinary period shall be supervised.

F. Respondent's supervisor must report at least once every six months on Respondent's compliance with this Joint Stipulation. Reports must be received before March 1 and September 1 of each year. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

G. Respondent must inform Respondent's employers, and all hospitals, institutions, and managed health care organizations with which Respondent is affiliated, that Respondent's work as a professional psychologist is under probation by the State Committee of Psychologists. Respondent must obtain written verification that each patient/client that Respondent treats, evaluates, or consults has been so informed.

III. GENERAL REQUIREMENTS

A. Respondent may not serve as a supervisor for any psychological trainee, psychological intern, psychological resident, psychological assistant, or any person undergoing supervision during the course of obtaining licensure as a psychologist, professional counselor, or social worker.

B. Respondent must keep the Committee apprised at all times, in writing, of Respondent's current home and work addresses and telephone numbers.

C. Respondent is required to pay to the Committee, in a timely fashion, all requisite fees required by law to renew and keep current Respondent's psychology license in Missouri.

D. Respondent is required to comply with all provisions of Chapter 337, RSMo; the rules and regulations duly promulgated by the Committee; and state and federal criminal laws.

E. Respondent must provide periodic reports of Respondent's compliance with this Joint Stipulation every six months. Reports must be received before March 1 and September 1 of each year. It is Respondent's responsibility to ensure that these reports are provided in a timely manner.

F. At Respondent's expense, Respondent must agree to meet with the Committee at reasonable intervals designated by the Committee.

2. The parties to this Joint Stipulation understand that the Committee will maintain this Joint Stipulation as an open and public record of the Committee as provided in Chapters 337, 610, and 620, RSMo.

3. Upon the determination of the Committee that the Respondent has failed to comply with the terms of this Joint Stipulation, the Committee may revoke Respondent's license or may take such other or additional disciplinary action against Respondent or Respondent's license as the Committee deems appropriate. No order shall be entered by the State Committee of Psychologists

pursuant to this paragraph of this consent order without notice and an opportunity for hearing before the Committee in accordance with the provisions of Chapter 536, RSMo.

4. Upon the expiration and successful completion of the period of probation, Respondent's license as a psychologist in Missouri shall be fully restored if all other requirements of law have been satisfied.

5. If the Committee determines that the Respondent has violated a term or condition of this Joint Stipulation, which violation would also be actionable in a proceeding before the Administrative Hearing Commission or the circuit court, the Committee may elect to pursue any lawful remedies or procedures afforded it and is not bound by this Joint Stipulation in its determination of appropriate legal actions concerning that violation. If any alleged violation of this Joint Stipulation occurred during the disciplinary period, the Committee may choose to conduct a hearing before it either during the disciplinary period, or as soon thereafter as a hearing can be held to determine whether a violation occurred and, if so, it may impose further discipline. The Committee retains jurisdiction to hold a hearing to determine if a violation of this Joint Stipulation has occurred.

6. The terms of this Joint Stipulation are contractual, legally enforceable, and binding, not merely recital. Except as otherwise contained herein, neither this Joint Stipulation nor any of its provisions may be changed, waived, discharged, or terminated, except by an instrument in writing signed by the party against whom the enforcement of the change, waiver, discharge, or termination is sought.

7. Respondent hereby waives and releases the Committee, its members and any of its employees, agents, or attorneys, including any former committee members, employees, agents, and

attorneys, of, or from, any liability, claim, actions, causes of action, fees, costs and expenses, and compensation, including, but not limited to, any claims for attorney's fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 U.S.C. § 1983, which may be based upon, arise out of, or relate to any of the matters raised in this litigation, or from the negotiation or execution of this Joint Stipulation. The parties acknowledge that this paragraph is severable from the remaining portions of this Joint Stipulation in that it survives in perpetuity even in the event that any court of law or administrative tribunal deems this Joint Stipulation or any portion thereof void or unenforceable.

In consideration of the foregoing, the parties consent to the entry of record and approval of this Joint Motion for Consent Order, Joint Stipulation of Facts, Waiver of Hearings Before the Administrative Hearing Commission and State Committee of Psychologists, and Joint Disciplinary Order with Joint Stipulated Findings of Fact and Conclusions of Law and to the termination of any further proceedings before the Administrative Hearing Commission based upon the Complaint filed by the Petitioner in the above-styled action.

RESPONDENT



Eric C. Hunsaker

Date

10/1/03

PETITIONER



Pamela Groose
Executive Director
State Committee of Psychologists

Date

10-2-03

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DECISION AND ORDER

THEREFORE, after fully considering the evidence before the Board, it is the decision of the State Committee of Psychologists that Respondent, Richard Lind, has violated the terms of his probated license and that Respondent's license as a psychologist is subject to further discipline.

It is the Order of the State Committee of Psychologists that the license to practice as a psychologist issued to Richard Lind, numbered PYR0415, is hereby REVOKED.

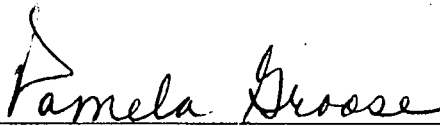
Richard Lind shall within ten days of receipt of this Order return all evidence of Missouri licensure including, but not limited to, all copies and originals of Respondent's psychologist license, wall hanging, and wallet certificate to the State Committee of Psychologists.

Entered this 1st day of December, 2003.

IT IS SO ORDERED.

(BOARD SEAL)

STATE COMMITTEE OF PSYCHOLOGISTS



Pamela Groose, Executive Director